

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Joseph Avoli,

Plaintiff,

v.

Sallie Mae, Inc.,

Defendant.

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: Civil Action No.: 4:13-cv-40010
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: **COMPLAINT**
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For this Complaint, the Plaintiff, Joseph Avoli, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. (the "TCPA").
2. This Court has original jurisdiction over Plaintiff's TCPA claims. Mims v. Arrow Fin. Serv., LLC, 132 S.Ct. 740 (2012).
3. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.
4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business here and a substantial portion of the acts giving rise to this action occurred here.

PARTIES

5. Plaintiff, Joseph Avoli ("Plaintiff"), is an adult individual residing in East Templeton, Massachusetts.
6. Defendant Sallie Mae, Inc. ("Sallie Mae"), is a Virginia business entity with an address of 12061 Bluemont Way, Reston, Virginia 20190.

FACTS

7. Within the past few months, Defendant contacted Plaintiff at his cellular and residential telephones using an automated telephone dialer system with an artificial or prerecorded voice (hereafter “Robocalls”) in an attempt to collect the Debt.

8. During the initial communication and during each communication thereafter, Plaintiff informed Defendant that he was unable to pay the Debt and requested that Defendant cease calls.

9. Despite Plaintiff’s revocation of previously given consent to be contacted at his cellular telephone, Defendant continued to place up to two Robocalls a day, every day, to Plaintiff’s cellular telephone.

A. Plaintiff Suffered Actual Damages

10. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendant’s unlawful conduct.

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –
47 U.S.C. § 227, et seq.

11. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

12. Without prior consent the Defendant contacted the Plaintiff by means of automatic telephone calls or prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. § 227(b)(1)(A)(iii).

13. The foregoing acts and omissions of the Defendant constitute violations of the Telephone Consumer Protection Act, including the above-cited provision.

14. The Plaintiff is entitled to damages as a result of the Defendant’s violations.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be awarded in his favor and against the Defendant as follows:

1. Statutory damages of \$500.00 dollars for each violation, pursuant to 47 U.S.C. § 227(b)(3)(B) & (C);
2. Attorney's costs and fees; and
3. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: January 15, 2013

Respectfully submitted,

By /s/ Sergei Lemberg

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